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ART UNIT	PAPER NUMBER
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/722,988
Filing Date: November 27, 2000
Appellant(s): ACHARYA ET AL.

Rhonda Sheldon
For Appellant

EXAMINER'S ANSWER

MAILED
JUN 2 9 2004
Technology Center 2600

This is in response to the appeal brief filed 5/17/04.

MAILED
JUN 2 9 2004
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(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1-30 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,532,265	VAN DER AUWERA ET AL	3-2003
6,351,491	LEE ET AL	2-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-7, 10, 12-16, 19, 21-25, 28, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Van der Auwera et al (6,532,265). This rejection is set forth in a prior Office Action, mailed on 7/9/03.

Claims 2, 8, 9, 11, 17, 18, 20, 26, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Auwera et al in view of Lee et al (6,351,491). This rejection is set forth in a prior Office Action, mailed on 7/9/03.

(11) Response to Argument

Appellant asserts on pages 17-19 of the Brief that Van der Auwera et al fails to disclose the choice of use or non-use of error data. As illustrated in Figure 8 of appellant's invention, the choice of use or non-use of error data depends on the position of the switch 814. Here, for example, when the switch is closed with respect to the Error Compensation 816, error data 806 is used. On the other hand, when the switch is opened, error data from 806 is not used. Similarly, Van der Auwera et al discloses the same method as specified in claim 1 of the present invention. Van der Auwera et al discloses a method of determining a plurality of sets of error norms 70 to indicate

motion in an image (col. 5, lines 60-61); based on these norms characteristics, the error data with the smallest error norm (col. 6, line 10) is used (i.e. closed switches in Fig. 11) while the other larger error norm data are not used (see Abstract).

Examiner acknowledges that Van der Auwera et al does not describe a method identical to that disclosed by appellants. However, claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983).

In response to appellant's argument on pages 17 and 18 of the Brief that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., magnitude of error data and motion vector are provided to indicate motion in an image regardless of type of a frame) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant also asserts on page 19 of the Brief that Lee et al fails to teach a collection of ordered bits for zerotree coding. However, Figure 4 of Lee et al illustrates the concept of such well known collection (i.e. in layers) of ordered bits (i.e. digital 0's and 1's) and coding of the bits of each order as zerotree roots ZTR that are associated with the order (e.g. IZ and VZTR).

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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June 24, 2004

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